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H. R. 3301

[Report No. 113–]

To require approval for the construction, connection, operation, or maintenance of oil or natural gas pipelines or electric transmission facilities at the national boundary of the United States for the import or export of oil, natural gas, or electricity to or from Canada or Mexico, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 22, 2013

Mr. UPTON (for himself, Mr. GENE GREEN of Texas, Mr. BARTON, Mr. COLLINS of New York, Mr. COSTA, Mr. CRAMER, Mr. CUELLAR, Mr. GALLEG0, Mr. HINOJOSA, Mr. MATHESON, Mrs. McMORRIS RODGERS, Mr. PETERSON, Mr. POMPEO, Mr. TERRY, Mr. VELA, and Mr. WHITFIELD) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Transportation and Infrastructure and Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

MAY 12, 2014

Reported from the Committee on Energy and Commerce with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on October 22, 2013]

A BILL

To require approval for the construction, connection, operation, or maintenance of oil or natural gas pipelines or electric transmission facilities at the national boundary of the United States for the import or export of oil, natural gas, or electricity to or from Canada or Mexico, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “North American Energy*
5 *Infrastructure Act”.*

6 **SEC. 2. FINDING.**

7 *Congress finds that the United States should establish*
8 *a more uniform, transparent, and modern process for the*
9 *construction, connection, operation, and maintenance of oil*
10 *and natural gas pipelines and electric transmission facili-*
11 *ties for the import and export of oil and natural gas and*
12 *the transmission of electricity to and from Canada and*
13 *Mexico, in pursuit of a more secure and efficient North*
14 *American energy market.*

15 **SEC. 3. AUTHORIZATION OF CERTAIN ENERGY INFRA-**
16 **STRUCTURE PROJECTS AT THE NATIONAL**
17 **BOUNDARY OF THE UNITED STATES.**

18 *(a) AUTHORIZATION.—Except as provided in sub-*
19 *section (c) and section 7, no person may construct, connect,*
20 *operate, or maintain a cross-border segment of an oil pipe-*
21 *line or electric transmission facility for the import or export*
22 *of oil or the transmission of electricity to or from Canada*
23 *or Mexico without obtaining a certificate of crossing for the*
24 *construction, connection, operation, or maintenance of the*
25 *cross-border segment under this section.*

1 ***(b) CERTIFICATE OF CROSSING.—***

2 ***(1) REQUIREMENT.—****Not later than 120 days*
3 *after final action is taken under the National Envi-*
4 *ronmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)*
5 *with respect to a cross-border segment for which a re-*
6 *quest is received under this section, the relevant offi-*
7 *cial identified under paragraph (2), in consultation*
8 *with appropriate Federal agencies, shall issue a cer-*
9 *tificate of crossing for the cross-border segment unless*
10 *the relevant official finds that the construction, con-*
11 *nection, operation, or maintenance of the cross-border*
12 *segment is not in the public interest of the United*
13 *States.*

14 ***(2) RELEVANT OFFICIAL.—****The relevant official*
15 *referred to in paragraph (1) is—*

16 ***(A) the Secretary of State with respect to oil***
17 ***pipelines; and***

18 ***(B) the Secretary of Energy with respect to***
19 ***electric transmission facilities.***

20 ***(3) ADDITIONAL REQUIREMENT FOR ELECTRIC***
21 ***TRANSMISSION FACILITIES.—****In the case of a request*
22 *for a certificate of crossing for the construction, con-*
23 *nection, operation, or maintenance of a cross-border*
24 *segment of an electric transmission facility, the Sec-*
25 *retary of Energy shall require, as a condition of*

1 *issuing the certificate of crossing for the request under*
2 *paragraph (1), that the cross-border segment of the*
3 *electric transmission facility be constructed, con-*
4 *nected, operated, or maintained consistent with all*
5 *applicable policies and standards of—*

6 *(A) the Electric Reliability Organization*
7 *and the applicable regional entity; and*

8 *(B) any Regional Transmission Organiza-*
9 *tion or Independent System Operator with oper-*
10 *ational or functional control over the cross-bor-*
11 *der segment of the electric transmission facility.*

12 *(c) EXCLUSIONS.—This section shall not apply to any*
13 *construction, connection, operation, or maintenance of a*
14 *cross-border segment of an oil pipeline or electric trans-*
15 *mission facility for the import or export of oil or the trans-*
16 *mission of electricity to or from Canada or Mexico—*

17 *(1) if the cross-border segment is operating for*
18 *such import, export, or transmission as of the date of*
19 *enactment of this Act;*

20 *(2) if a permit described in section 6 for such*
21 *construction, connection, operation, or maintenance*
22 *has been issued;*

23 *(3) if a certificate of crossing for such construc-*
24 *tion, connection, operation, or maintenance has pre-*
25 *viously been issued under this section; or*

1 (4) *if an application for a permit described in*
2 *section 6 for such construction, connection, operation,*
3 *or maintenance is pending on the date of enactment*
4 *of this Act, until the earlier of—*

5 (A) *the date on which such application is*
6 *denied; or*

7 (B) *July 1, 2016.*

8 (d) *EFFECT OF OTHER LAWS.—*

9 (1) *APPLICATION TO PROJECTS.—Nothing in this*
10 *section or section 7 shall affect the application of any*
11 *other Federal statute to a project for which a certifi-*
12 *cate of crossing for the construction, connection, oper-*
13 *ation, or maintenance of a cross-border segment is*
14 *sought under this section.*

15 (2) *NATURAL GAS ACT.—Nothing in this section*
16 *or section 7 shall affect the requirement to obtain ap-*
17 *proval or authorization under sections 3 and 7 of the*
18 *Natural Gas Act for the siting, construction, or oper-*
19 *ation of any facility to import or export natural gas.*

20 (3) *ENERGY POLICY AND CONSERVATION ACT.—*
21 *Nothing in this section or section 7 shall affect the*
22 *authority of the President under section 103(a) of the*
23 *Energy Policy and Conservation Act.*

1 **SEC. 4. IMPORTATION OR EXPORTATION OF NATURAL GAS**
2 **TO CANADA AND MEXICO.**

3 *Section 3(c) of the Natural Gas Act (15 U.S.C.*
4 *717b(c)) is amended by adding at the end the following:*
5 *“No order is required under subsection (a) to authorize the*
6 *export or import of any natural gas to or from Canada*
7 *or Mexico.”.*

8 **SEC. 5. TRANSMISSION OF ELECTRIC ENERGY TO CANADA**
9 **AND MEXICO.**

10 *(a) REPEAL OF REQUIREMENT TO SECURE ORDER.—*
11 *Section 202(e) of the Federal Power Act (16 U.S.C. 824a(e))*
12 *is repealed.*

13 *(b) CONFORMING AMENDMENTS.—*

14 *(1) STATE REGULATIONS.—Section 202(f) of the*
15 *Federal Power Act (16 U.S.C. 824a(f)) is amended by*
16 *striking “insofar as such State regulation does not*
17 *conflict with the exercise of the Commission’s powers*
18 *under or relating to subsection 202(e)”.*

19 *(2) SEASONAL DIVERSITY ELECTRICITY EX-*
20 *CHANGE.—Section 602(b) of the Public Utility Regu-*
21 *latory Policies Act of 1978 (16 U.S.C. 824a–4(b)) is*
22 *amended by striking “the Commission has conducted*
23 *hearings and made the findings required under sec-*
24 *tion 202(e) of the Federal Power Act” and all that*
25 *follows through the period at the end and inserting*
26 *“the Secretary has conducted hearings and finds that*

1 *the proposed transmission facilities would not impair*
2 *the sufficiency of electric supply within the United*
3 *States or would not impede or tend to impede the co-*
4 *ordination in the public interest of facilities subject to*
5 *the jurisdiction of the Secretary.”.*

6 **SEC. 6. NO PRESIDENTIAL PERMIT REQUIRED.**

7 *No Presidential permit (or similar permit) required*
8 *under Executive Order 13337 (3 U.S.C. 301 note), Execu-*
9 *tive Order 11423 (3 U.S.C. 301 note), section 301 of title*
10 *3, United States Code, Executive Order 12038, Executive*
11 *Order 10485, or any other Executive Order shall be nec-*
12 *essary for the construction, connection, operation, or main-*
13 *tenance of an oil or natural gas pipeline or electric trans-*
14 *mission facility, or any cross-border segment thereof.*

15 **SEC. 7. MODIFICATIONS TO EXISTING PROJECTS.**

16 *No certificate of crossing under section 3, or permit*
17 *described in section 6, shall be required for a modification*
18 *to the construction, connection, operation, or maintenance*
19 *of an oil or natural gas pipeline or electric transmission*
20 *facility—*

21 *(1) that is operating for the import or export of*
22 *oil or natural gas or the transmission of electricity to*
23 *or from Canada or Mexico as of the date of enactment*
24 *of the Act;*

1 (2) *for which a permit described in section 6 for*
2 *such construction, connection, operation, or mainte-*
3 *nance has been issued; or*

4 (3) *for which a certificate of crossing for the*
5 *cross-border segment of the pipeline or facility has*
6 *previously been issued under section 3.*

7 **SEC. 8. EFFECTIVE DATE; RULEMAKING DEADLINES.**

8 (a) *EFFECTIVE DATE.*—*Sections 3 through 7, and the*
9 *amendments made by such sections, shall take effect on July*
10 *1, 2015.*

11 (b) *RULEMAKING DEADLINES.*—*Each relevant official*
12 *described in section 3(b)(2) shall—*

13 (1) *not later than 180 days after the date of en-*
14 *actment of this Act, publish in the Federal Register*
15 *notice of a proposed rulemaking to carry out the ap-*
16 *plicable requirements of section 3; and*

17 (2) *not later than 1 year after the date of enact-*
18 *ment of this Act, publish in the Federal Register a*
19 *final rule to carry out the applicable requirements of*
20 *section 3.*

21 **SEC. 9. DEFINITIONS.**

22 *In this Act—*

23 (1) *the term “cross-border segment” means the*
24 *portion of an oil or natural gas pipeline or electric*
25 *transmission facility that is located at the national*

1 *boundary of the United States with either Canada or*
2 *Mexico;*

3 (2) *the term “modification” includes a reversal*
4 *of flow direction, change in ownership, volume expan-*
5 *sion, downstream or upstream interconnection, or ad-*
6 *justment to maintain flow (such as a reduction or in-*
7 *crease in the number of pump or compressor sta-*
8 *tions);*

9 (3) *the term “natural gas” has the meaning*
10 *given that term in section 2 of the Natural Gas Act*
11 *(15 U.S.C. 717a);*

12 (4) *the term “oil” means petroleum or a petro-*
13 *leum product;*

14 (5) *the terms “Electric Reliability Organization”*
15 *and “regional entity” have the meanings given those*
16 *terms in section 215 of the Federal Power Act (16*
17 *U.S.C. 824o); and*

18 (6) *the terms “Independent System Operator”*
19 *and “Regional Transmission Organization” have the*
20 *meanings given those terms in section 3 of the Federal*
21 *Power Act (16 U.S.C. 796).*